

# Implications of GATT TRIPS COVID-19 IP Waiver Proposal for Intellectual Property Protections of COVID-19 Vaccines

*Margaret Sampson*

*November 4, 2021*

CONFIDENTIAL  
© Copyright Baker Botts 2021. All Rights Reserved.

**BAKER BOTTS** 

## OVERVIEW AND TIMELINE

---

Implications of GATT TRIPS COVID-19 IP Waiver Proposal for Intellectual Property Protections of COVID-19 Vaccines

**BAKER BOTTS** 

## What is the TRIPS Agreement?

- TRIPS = Trade Related Aspects of IP Rights Agreement
- Established in 1995 under the World Trade Organization
- Sets minimum standards for IP Rules & Enforcement Mechanisms related to:
  - Patents
  - Copyrights
  - Trademarks
  - Industrial Designs
  - Protection of Undisclosed Information

## TRIPS Council

- Comprises all WTO Member Countries
- Responsible for Considering IP Issues at WTO:
  1. Monitoring
  2. Consultations
  3. Review & Negotiation of TRIPS provisions
  4. Review of TRIPS Agreement as a whole

## TRIPS Waiver

- Broadly allows WTO Members to act inconsistent with TRIPS IP rules
- Removes obligations to domestically enforce certain rules
- Does not compel changes in domestic law
- Example 2003 Waiver: WTO member countries can use compulsory licensing to export patented pharmaceutical products needed to address public health issues.

## Waiver Process

- Waiver proposal presented to TRIPS Council
- Proposal Considered by WTO Members
- No formal vote
  - Instead, Member Countries engage in extended discussion until unanimous agreement reached
- Requires 75% majority to pass
  - in practice, consistently opt to approve by unanimous consensus

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Implications of GATT TRIPS COVID-19 IP Waiver Proposal for Intellectual Property Protections of COVID-19 Vaccines

Also available as part of the eCourse

[2021 Advanced Patent Law \(Austin\) eConference](#)

First appeared as part of the conference materials for the 26<sup>th</sup> Annual Advanced Patent Law Institute session "GATT TRIPS COVID-19 IP Waiver Proposal"